

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil No. 12-1305

2004 DODGE RAM TRUCK
VIN:1D7HA16D24J295608,

Defendant,

and

FAUSTINO GUTIERREZ-MORALES,

Claimant.

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

Plaintiff states:

JURISDICTION AND VENUE

1. This is a civil action *in rem* for forfeiture of Defendant which has been located and will be arrested by execution of a Warrant for Arrest in the District of New Mexico; and during the pendency of this action Defendant, or its equivalent or proceeds thereof, will be subject to the jurisdiction of this Court.

2. The United States District Court for the District of New Mexico has exclusive, original jurisdiction under 28 U.S.C. §§ 1345, 1355 and 1356.

3. Venue is proper under 28 U.S.C. §§ 1355 and 1395.

4. The "res" or Defendant Property which is the subject of this action is a 2004 Dodge Ram Truck VIN:1D7HA16D24J295608 (hereafter referred to as "Defendant Vehicle").

PARTIES AND CLAIMANTS

5. The following persons may claim an interest in Defendant Vehicle:
 - (a). Faustino Gutierrez-Morales, Santa Fe County Correctional Facility, at 102 Grant Avenue, Santa Fe, NM 87501-2061, and/or at 1922 Edith Blvd. SE, Albuquerque, NM 87102, and/or at 10116 Second Street SW, Albuquerque, NM 87114, whose attorney is Daniel R. Marlowe, The Marlowe Law Firm, 1322 Paseo de Peralta, Santa Fe, NM 87501.

STATEMENT OF FACTS

6. On July 5, 2012, Department of Homeland Security (DHS)/Homeland Security Investigations (HSI) agents and other law enforcement through an undercover agent conducted a controlled purchase of about one pound (444.59 grams) of methamphetamine for \$22,000 from Faustino Gutierrez-Morales at 1922 Edith Blvd. SE, Albuquerque, NM.

7. Earlier in the investigation, on June 4, 2012, a Confidential Informant (CI) told law enforcement that Gutierrez-Morales was selling cocaine at 1922 Edith SE in Albuquerque, NM. Law enforcement used the CI to conduct a controlled purchase of cocaine.

8. On July 3, 2012, the CI informed law enforcement that Gutierrez-Morales had two pounds of methamphetamine available for sale at \$22,000 per pound. Law enforcement told the CI to arrange for a purchase on July 5, 2012.

9. On July 4, 2012, Gutierrez-Morales went to the CI's home and gave him a sample of the methamphetamine. Gutierrez-Morales said he had sold one pound of methamphetamine and still had a pound left to sell to the CI and to an undercover agent.

10. On July 5, 2012, HSI agents obtained a federal search warrant for 1922 Edith SE in Albuquerque, NM. On July 5, 2012, Gutierrez-Morales called an undercover officer to tell him the methamphetamine was ready to be picked up. The undercover officer and the CI went to 1922

Edith SE in Albuquerque, NM, and met with Gutierrez-Morales. Gutierrez-Morales provided a plastic container with methamphetamine, and the undercover officer paid Gutierrez-Morales \$22,000. They arranged to make a future purchase of methamphetamine.

11. On July 5, 2012, Gutierrez-Morales was arrested at 1922 Edith SE.

12. In a search of 1922 Edith SE on July 5, 2012, agents found the \$22,000 that the undercover officer had paid to Gutierrez-Morales, a small amount of cocaine, and other drug paraphernalia. Agents seized the \$22,000, a cell phone, digital scale, ammunition (.25, .38, and 9 mm caliber), and \$1,379 found on his person consisting mostly of \$20 bills (50 \$20 bills = \$1000; 4 \$50 bills = \$200; 10 \$10 bills = \$100, one \$2 bill = \$2; and 7 \$1 bills = \$7).

13. On July 5, 2012, the Defendant Vehicle was seized at 1922 Edith Blvd SE in Albuquerque, NM.

14. Gutierrez-Morales had been removed from the United States on January 2, 1998, April 4, 2001, and again on February 8, 2002.

15. The 444.59 grams of methamphetamine was 85% pure, with an actual amount of 377.90 grams of methamphetamine.

16. As of July 12, 2012, the Defendant Vehicle was registered to Gutierrez-Morales at 10116 Second Street SW, Albuquerque, NM 87114. Gutierrez-Morales submitted an administrative claim to the DEA for the Defendant Vehicle dated September 20, 2012, listing his address as 10116 Second St. SW, Albuquerque, NM 87114.

17. A Google search of the distance between 10116 Second St SW and 1922 Edith Blvd SE in Albuquerque, NM, shows it to be 8.4 miles.

18. Gutierrez-Morales was charged with violations of 21 U.S.C. § 841 for Distribution of Methamphetamine and 8 U.S.C. § 1326 for Re-entry of a Removed Alien in an indictment filed on July 26, 2012, and in a superseding indictment filed on September 25, 2012. *United States v. Faustino Gutierrez-Morales*, 12CR1831 LH, USDC D.N.M.

CLAIMS FOR RELIEF

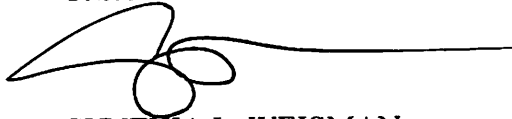
19. Defendant Vehicle is subject to arrest and forfeiture to Plaintiff under 21 U.S.C. § 881(a)(4) because it was used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of illegal controlled substances.

20. Defendant Vehicle is subject to arrest and forfeiture to Plaintiff under 21 U.S.C. § 881(a)(6) because it was furnished, or intended to be furnished, in exchange for an illegal controlled substance, or constitute proceeds traceable to such an exchange, or were used or intended to be used to facilitate a violation of the Controlled Substances Act.

WHEREFORE, Plaintiff seeks arrest of Defendant Vehicle and forfeiture of same to Plaintiff, determination of the validity and priority of claims of the Claimants and any Unknown Claimants to the Defendant Vehicle, costs and expenses of seizure and of this proceeding, and other proper relief.

Respectfully submitted,

KENNETH J. GONZALES
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read 'Cynthia L. Weisman', with a long horizontal line extending to the right.

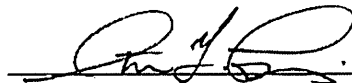
CYNTHIA L. WEISMAN
Assistant U.S. Attorney
P.O. Box 607
Albuquerque, New Mexico 87103
(505) 346-7274

28 U.S.C. § 1746 DECLARATION

I am a Special Agent with Homeland Security Investigations who has read the contents of the Complaint for Forfeiture In Rem to which this Declaration is attached; and the statements contained in the complaint are true to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the United States of America that this Declaration is true and correct, except as to matters stated on information and belief, and as to those matters I believe them to be true.

DATED: December 17, 2012



Steven Lopez, Special Agent
Homeland Security Investigations